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CELA

CONFIDENTIAL
COMMUNICATION

October 18, 2018

VIA E-MAIL TO CELA@FEC.GOV

Federal Election Commission
Office of Complaints Examination & Legal Administration
Attn: Christal Dennis
1050 First Street, N.E.
Washington, DC 20463

Re: Matter Under Review 7503

Dear Office of Complaints Examination & Legal Administration:

On behalf of the Congressional Leadership Fund and Treasurer Caleb Crosby, enclosed is a response to the Complaint in the above-captioned MUR.

Very truly yours,

/s/ E. Stewart Crosland

E. Stewart Crosland

Enclosure

cc: Megan S. Newton

BEFORE THE FEDERAL ELECTION COMMISSION

)
) **MUR 7503**
)

**RESPONSE OF THE CONGRESSIONAL LEADERSHIP FUND AND
CALEB CROSBY, AS TREASURER, TO THE COMPLAINT**

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The Congressional Leadership Fund and Treasurer Caleb Crosby (collectively, "CLF") hereby submit this response to the Complaint in the above-captioned Matter Under Review. The Complaint wrongly speculates that CLF engaged in prohibited "coordination" with the Kansas Republican Party ("the State Party") in connection with a testimonial TV advertisement addressing why Sharice Davids's extreme, liberal agenda is too risky for families in Kansas's Third Congressional District. In truth, CLF did not coordinate its ad with the State Party, and the Complaint offers no evidence that it did, meaning the "conduct prong" of the Commission's coordination standard (11 C.F.R. § 109.21(d)) has not been met. Consistent with its precedent, the Commission must dismiss this matter and close the file immediately.

The Complaint, a poorly disguised partisan attack from a Kansas Democratic party official, relies entirely on a false premise and conclusory allegations. It asserts that CLF must have coordinated its communication with the State Party only because the ad featured an on-camera testimonial from Ms. Alana Roethle, who allegedly serves as the secretary of the State Party. Yet the Commission already rejected such an argument in MUR 6796 (House Majority PAC), and must do so again here. *See Factual & Legal Analysis to House Majority PAC, MUR 6796, at 8 (Dec. 17, 2015) (finding that alleged Democratic Club officials' "appearance in [a*

House Majority PAC TV] advertisement” did not “alone suggest[] the material involvement of the Democratic Club” in the ad).¹

Ms. Roethle appeared in CLF’s ad, along with her four young children, not on behalf of the State Party but as a private citizen and resident of Kansas’s Third Congressional District. *See* 11 C.F.R. §§ 109.3(a)(1)–(5) (establishing that individual must have actual authority to engage in specified activities on behalf of party committee to qualify as an “agent”). CLF had no communication with the State Party about Ms. Roethle appearing in the advertisement – she was found for the ad based on a preexisting relationship – and neither Ms. Roethle nor anyone else from the State Party had any role in CLF’s decision-making concerning the content or dissemination of its ad. Ms. Roethle merely read from a script CLF had prepared beforehand. Ms. Roethle, moreover, signed CLF’s standard release form affirming, among other things, that she had “not participated . . . at the request or suggestion of any federal candidate or candidate’s campaign; [had] not requested or suggested that CLF air any advertisements in any federal candidate’s race; and [had] not provided any non-public information about any federal candidate or committee’s private plans, projects, activities, or needs. *See* Attachment (Release Form).

In short, CLF did not coordinate its ad with the State Party, and the Complaint offers no evidence whatsoever that meets the conduct prong of the Commission’s coordination standard. Accordingly, for the reasons set forth, the Commission must dismiss the Complaint and close the file immediately.

¹ Furthermore, the Commission consistently has concluded that someone’s role as an officer of a party committee does not create a presumption that all of her private actions are taken on behalf of that party committee. *See, e.g., Prohibited and Excessive Contributions*, 67 Fed. Reg. 49,064, 49,083 (July 29, 2002) (allowing nonfederal fundraising by state party chairmen who also serve as members of their national party committees because “it is clear that individuals . . . can . . . wear multiple hats” (emphasis added)); *see also McConnell v. FEC*, 540 U.S. 93, 161 (2003) (affirming that party committee officers “may . . . solicit soft money in their unofficial capacities”).

Attachment

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MODEL RELEASE AND NON-DISCLOSURE AGREEMENT

I hereby give the Congressional Leadership Fund ("CLF") and the agents acting under its authority the unrestricted and irrevocable right to use audio and images taken of me by CLF and its agents in all forms, in all media, and in all manners for advertising, trade, promotion, exhibition, and any other lawful purpose. Such right shall be without restriction as to changes or alterations, including but not limited to composite representations or derivative works made in any medium. I hereby relinquish any right that I may have to inspect or approve the completed product, copy, or printed matter incorporating the audio or image(s) taken of me by CLF and its agents, or the use to which the audio or image(s) may be applied.

I hereby release, discharge, and agree to hold CLF and its agents harmless against any liability by virtue of any use in composite form or derivative works, whether intentional or otherwise, that may occur or be produced in the taking of said audio or images, or in any subsequent processing thereof, as well as any publication thereof, including without limitation any claims for libel or invasion of privacy.

In connection with the foregoing, I may have received information about CLF, including but not limited to plans, strategies, data, lists, or information related to the its policy, political, legal, operations, communications, or fundraising activities (the "Confidential Information").

In consideration for my services to CLF, I agree that unless I am authorized in writing by CLF, I will not disclose to any person the Confidential Information. If I am required to disclose any Confidential Information by law or court order, I will notify CLF and its legal counsel immediately.

I swear that I am not an agent of (1) any candidate for the U.S. House of Representatives and/or U.S. congressional candidate campaign, or (2) the National Republican Congressional Committee ("NRCC"), or (3) the National Republican Congressional Committee's Independent Expenditure Unit ("NRCC IE Unit"), and that I am not aware of the non-public, private plans, projects, activities, or needs of any of the aforementioned entities. Furthermore, I affirm that I have not participated in any CLF advertisement at the request or suggestion of any federal candidate or candidate's campaign; I have not requested or suggested that CLF air any advertisements in any federal candidate's race; and I have not provided any non-public information about any federal candidate or candidate committee's private plans, projects, activities, or needs.

I agree that the obligations provided herein are necessary and reasonable in order to protect CLF and its agents and affiliates. I understand that a failure to abide by these policies could result in legal consequences where appropriate.

I hereby affirm that I am over the age of eighteen and have the right to contract in my own name. I have read the above authorization, release and agreement, prior to its execution, and I fully understand the contents thereof. This release shall be binding in perpetuity upon me as well as my heirs, legal representatives, and assigns:

Alana Roemer
Print Name

Guardian Name (if model is not 18+ years old)

A D
Signature of Model or Guardian

1400 Canterbury St
Address

9/18/18
Date